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SUBJECT: MOLDOVA CHILD LABOR UPDATE

REF: STATE 149662

¶1. The Government of Moldova (GOM) has taken positive legislative and regulatory steps in recent years to address problems related to child labor. However, lack of government funding; poor staffing levels in monitoring agencies; customary employment of children, especially during the harvest; cultural norms which regard child labor as a normal part of growing up; lack of accurate, up-to-date data about children's employment in the informal sector; and administrative incapacity all make reform difficult.

¶2. Conditions for children in Moldova are difficult. Physical abuse is common, and, according to a 2006 UNICEF report, 34.5% of children live in poverty. Child poverty is widespread in large families in both rural and urban areas. Children living in households without one or both of their parents (generally as a result of parents' out-migration to find work) make up about one-third of children in Moldova, and are increasingly appearing among those who live in persistent poverty. More than two-thirds of poor people's income goes for food. Expenditures for clothing and footwear are 2.6%, 2.1% for health, and 0.4% for education.

¶3. According to the 2006 UNICEF report, the percentage of children attending primary school dropped from 94% to 88% between 2000 and ¶2005. Approximately 16,000 young people between the ages of 15 and 16 leave the educational system each year without any professional qualifications.

¶4. According to a 2000 UNICEF survey (the latest available figures, as the GOM does not collect child labor statistics), approximately 37% of children aged 5 to 14 were defined as "currently working," that is, working for a non-household member or performing more than four hours per day of work, either in the home or on the family farm; and measured by income, 50% of the poorest children were currently working. ILO's International Program on the Elimination of Child Labor (ILO-IPEC) discovered in 2007 research that two-thirds of rural children were engaged in farm work by the age of 10, and that many were exposed to risks of injury or disease.

¶5. (Specific answers to questions raised in reftel begin here.)
Laws and regulations proscribing the worst forms of child labor:

-- The Moldovan Parliament ratified ILO Convention No. 182 on February 14, 2002. The convention came into force on June 14, 2002. Moldova signed the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography in 2002, and ratified it on February 22, 2007. Enforcement began on March 16, 2007.

-- On February 17, 2005, Parliament ratified the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime.

-- The Criminal Code, which came into force on June 12, 2003, increased the level of child labor protection, and contains specific provisions regarding the worst forms of child labor.

-- On March 28, 2003, the GOM adopted a new Labor Code reflecting international norms. The code came into force on October 1, 2003.

-- The Labor Code stipulates in Article 46 that the minimum age for employment is 16 years old. When the child has written agreement from a parent or legal representative, a 15 year old can sign a work contract if his/her health will not be placed in danger, and if the work will not interfere with the child's growth, instruction, education and professional development. Under no circumstances may persons under 15 years of age be employed.

-- Under Article 96 of the Labor Code, employees between the ages of 15 and 16 may work a maximum of 24 hours per week. Those between the ages of 16 and 18 may work a maximum of 35 hours a week. Article 100 of the Code stipulates that those 15 to 16 years old may work no longer than five hours in a single day, and those between 16 and 18 years may not work more than seven hours per day. It is prohibited, according to Articles 110 and 111, respectively, for employees under 18 years of age to work on weekends and official holidays.

-- All employees under 18 years of age, according to Article 152 of the Labor Code, may be employed only after they have passed a thorough medical exam. Each individual must take and pass a mandatory medical exam--paid for by the employer--each year until he or she reaches 18.

-- The Law on Children's Rights (No. 338-XIII of December 15, 1994) has two articles which address child labor. Article 6 protects

CHISINAU 00001404 002 OF 005

children from any form of exploitation. Article 11 provides for the right of children to work according to their age capacities, state of health and professional training. This Article stipulates that children age 14 and above can work with the written consent of their parents or legal representative, contradicting the Labor Code, which stipulates a minimum work age of 15 years of age. The GOM plans to amend the law to comply with the provisions of the Labor Code. The law has not yet been amended; however, government Order No. 220 corrected the age to 15.

-- The GOM has introduced numerous amendments to the Civil Administrative Code in order to make it consistent with ILO Convention No. 182. The Parliament was considering a draft law on the protection of children in difficulty, which would improve the legislative framework for dealing with children's issues.

-- Minors under 18 years of age have the same labor rights as adults. In addition, they are granted additional rights regarding labor protection, working hours, and annual leave. Labor Code Article 255 prohibits minors (under 18) from participating in hazardous work. The definition of "hazardous work" covers work that is harmful or dangerous, as well as jobs that can damage minors' health or moral integrity, including work involving gambling, working in night clubs, and selling alcohol or tobacco. The Moldovan government approved, on September 7, 1993, a special list of "hazardous work" not permitted for minors. The list includes industries, sub-industries, sectors and professions with arduous and dangerous labor conditions. It includes work underground in any profession, metallurgical work (heavy metals, steel making, rolling processes), energy and heat production, energy transmission and line equipment repair, and well drilling.

-- There is no special child labor law in Moldova. The provisions of the Labor Code on minors' issues apply to all types of work.

-- The Criminal Code defines the worst forms of child labor or hazardous work as the ILO defines those terms. The law covers all sectors.

-- The minimum age of 16 to work without the consent of a parent is

consistent with the age for completing educational requirements.

16. Regulations for implementation and enforcement of proscriptions against the worst forms of child labor:

-- Legal remedies, civil fines and criminal penalties are used to enforce labor legislation, including child labor rules.

-- Article 206 of the Criminal Code, which came into force on June 12, 2003, provides for ten to fifteen years imprisonment for trafficking in children and for involving children in the worst forms of child labor, as defined in ILO Convention No. 182. In cases with aggravating circumstances, the punishment can amount to a life sentence. Article 208 of the Criminal Code establishes a sentence of up to ten years in prison for instigating minors to perpetrate crimes or immoral acts, including begging or gambling. Article 209 provides for a sentence of up to six years in prison for introducing minors to drug use.

-- Moldova has a Labor Inspection Office (LIO), which has responsibility for investigating all cases of possible labor violations, including those related to child labor. The government was restructured in 2005 in an effort to consolidate and streamline its administration. Labor issues, which had been the responsibility of the Ministry of Labor and Social Protection, were split between a newly formed Ministry of Health and Social Protection and the Ministry of Economy and Trade. The LIO was moved into the Ministry of Economy and Trade. In November 2006, the Government decided to recreate the Ministry of Labor, Social Protection and Family.

-- On June 2, 2005, the Code on Administrative Offenses was amended to allow labor inspectors to apply administrative sanctions for non-criminal violations on behalf of the LIO without having to refer the case to a court as had been required prior to the amendment. Criminal inquiries are submitted for investigation to a prosecutor's office.

-- On June 2, 2005, the Parliament also adopted several amendments to the Law on Labor Inspection. The Law now allows for the inspection of both legal and physical persons, paving the way for labor inspection of the informal sector. It also allows the LIO to request local public administrations to withdraw the licenses of employers who repeatedly neglect labor inspection recommendations.

-- On June 2, 2005, the Code on Administrative Offenses was also amended to increase fines for employers using child labor from USD 320 to USD 4,000.

-- The LIO has 123 employees, with 81 of those employees carrying out inspections. Two Labor Inspection Officers are posted in each district (raion) throughout the country. LIO employees cover all

CHISINAU 00001404 003 OF 005

types of labor violations, not just those connected to child labor. However, the government does not keep separate records of those labor investigations that deal with child labor. Nor do published statistics analyze inspections and infractions by age or industry. No data exist for implementation of penalties imposed on those who involve minors in work that is hazardous for their health.

-- The LIO's analysis of employment figures for 2005 concludes that 668 salaried persons under the age of 18, out of a salaried work force of 654,712, were employed in 2005 in unsanitary or hazardous conditions that involved hard physical labor. The National Bureau of Statistics stated that the number of persons between the ages of 15 and 18 registered in the labor market was 11,300 in 2005, 12,500 in 2007, and 7,100 in the first quarter of 2007.

-- LIO figures for 2005, for instance, report that 6,327 inspections occurred and that 71,139 violations were noted. As noted, no breakdowns for violations involving children are available. In 2006, 6,025 inspections occurred, and 2,001 in the first four months of 2007. The LIO states that it is able to inspect no more than 4% of the approximately 180,000 businesses in Moldova. Between 2000 and April 2007, 16 persons under 18 were involved in accidents caused by lax safety and health conditions.

-- According to ILO's International Program on the Elimination of Child Labor (ILO-IPEC), many children work in agriculture, but it is very difficult to identify children involved in forced labor in agriculture and those helping on family farms, a practice that is very common throughout the country. There are no specific laws that address child labor on family farms.

-- On November 24, 2006, the Ministry for Social Protection, Child and Family was established (Law No. 357-XVI on amendment of the Law on the Government Structure). Its district-level directorates will be created in 2008. The main tasks of the newly established Ministry are to consolidate the government's child labor programs under one umbrella, and develop and implement policies on social insurance, social assistance, protection of the rights of children and family, gender equality, prevention of domestic violence, and social protection of victims.

-- On May 28, 2007, a Child Labor Unit (CLU) was set up within the Labor Inspectorate of Moldova. The CLU includes two persons who will act as a secretariat of the National Steering Committee on the Elimination of Child Labor (established in 2004) and will be responsible for developing, implementing and monitoring the national response for the eradication of child labor in Moldova.

-- In June 2007, the Labor Inspectorate, with the support of ILO-IPEC partners, developed the Country-specific Training Curriculum for Labor Inspectors on Combating Child Labor. This curriculum was used to train 34 labor inspectors from five of ten labor inspectorates.

-- On July 3, 2007, the National Commission for Tripartite Bargaining and Consultation approved the Collective Convention on Elimination of the Worst Forms of Child Labor and the List of Works Prohibited to Children. The Convention entered into force on July 24, 2007. The Secretariat of the Commission will coordinate the implementation of the provisions of the Convention. The Convention plans a scheduled elimination of specific worst forms of child labor in Moldova.

-- In May 2007, the Child Labor Documentation Center was organized within the Labor Inspectorate. The center is equipped with updated information on relevant legislation and policies, information materials and working tools for multidisciplinary professionals dealing with the issue of child labor.

17. Whether there are social programs to prevent and withdraw children from the worst forms of child labor:

-- In April of 2004 a Memorandum of Understanding was signed between the GOM and the ILO to establish the International Program on the Elimination of Child Labor (IPEC) in Moldova. The ILO-IPEC program is funded by Germany and the U.S. Department of Labor. In May 2004, the National Steering Committee on the Elimination of Child Labor was created to oversee and guide the activities of ILO-IPEC in Moldova. The National Steering Committee has a tripartite structure made up of relevant GOM ministries, ILO-IPEC, and workers' and employers' organizations. It also includes a consultative group, which includes international organizations and related NGOs. ILO-IPEC is funding several programs, including a project being implemented by the NGO La Strada, to improve the reintegration of child trafficking victims. UNICEF is funding a Center for Child Abuse Prevention in Chisinau that deals with children at risk, including potential victims of trafficking and exploitation.

-- A National Human Rights Action Plan was adopted by the Parliament in November 2003. The Action Plan includes separate chapters dedicated to preventing and combating trafficking in human beings,

CHISINAU 00001404 004 OF 005

ensuring the right to education, and ensuring the rights of children.

-- The GOM approved the National Strategy on "Education for All" (2004-2008) in April 2003. The Ministry of Education drafted the strategy and is responsible for its implementation and oversight. The main objective of the Strategy is to provide access to

high-quality early and basic education to all children, especially children from vulnerable families.

-- Article 9 of the Law on Education specifies compulsory primary and secondary education for every child under sixteen years old. However, ILO-IPEC reported in its 2005 "Child Trafficking - The People Involved" report, that despite this law and the Education for All strategy, the number of unschooled children is growing. Some 11% of children of school age have never attended school. Of the children who do attend, only 80% attend regularly and many children drop out of school early to start work.

18. Does the country have a comprehensive policy aimed at the elimination of the worst forms of child labor?

-- The Government of Moldova approved the National Employment Strategy of Moldova for the period 2006-2020 on May 31, 2007. The strategy will facilitate access to decent and sustainable employment by aligning academic and vocational education with labor market needs and increasing vocational counseling, especially in rural areas.

-- On July 3, 2007, the National Commission for Tripartite Bargaining and Consultation approved the Collective Convention on Elimination of the Worst Forms of Child Labor and the List of Works Prohibited to Children.

-- Education is free in law, but extra fees for books and uniforms can make costs prohibitive for some families. However, at the beginning of the second quarter of the 2006-2007 school year, the Ministry of Education noted a drop in the number of children not attending school (from 438 in 2005-2006 to 224), and a drop in the number of dropouts (from 297 in 2005-2006 to 141). As noted in the preface, the ILO-IPEC survey noted that approximately 16,000 young people between the ages of 15 and 16 leave the educational system each year without any professional qualification.

19. Is the country making continual progress toward eliminating the worst forms of child labor?

-- As noted in para. 6, the LIO has 123 employees, with 81 of those employees carrying out inspections. Two Labor Inspection Officers are posted in each district.

-- The inspectors have established and maintained good working relationships with public institutions, particularly the police and the National Employment Agency, and have received useful training from Belgian and Romanian experts. In addition, they have benefited from legal changes in force since 2005, which allow them to apply administrative sanctions without referral to the courts, and to inspect both legal and physical persons, thus paving the way for inspection in the informal sector. Nevertheless, the LIO inspectors face serious challenges, according to ILO-IPEC:

-- A Fragmented Inspection System: Inspectors do not have a single, unified manual governing their work, but consult guides on labor, health, nomenclature of industries, and meteorological and technical surveillance. In addition, the LIO shares an overlapping mandate with the National Center for Preventive Medicine (NCPM), and must rely on NCPM staff and equipment to measure and document hazards. The NCPM often cannot help, because of lack of equipment, and competing priorities, such as food inspection and epidemiological surveillance.

-- Insufficient Capacity: The 81 territorial inspectors are able to reach only 3.8% (approximately 7,000 of 180,000) registered enterprises per year. Inspectors are paid between USD 100 and 150 per month, and often lack funds for transport, hazard-risk measurement tools, and computers.

-- Lack of Access to the Informal Economy: Despite the increase in inspection authority, the LIO's limited resources will restrict access to traditional, unstructured, family, artisanal, and generally unregistered businesses. Shifting workplaces, such as street work, are hard to find, and businesses carried out in private homes are difficult to inspect, because of privacy rights.

-- Corruption: Only two LIO representatives have been fined for

corruption. However, according to a recent Transparency International poll, almost 20% of entrepreneurs contacted by labor inspectors paid bribes. The reform allowing administrative sanction without reference to the courts, allowing inspectors to levy fines directly, could unintentionally increase corruption.

CHISINAU 00001404 005 OF 005

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